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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-ninth session

SUMMARY RECORD OF THE 1180th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 August 1996, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10.10 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Israel

1. Mr. van BOVEN, speaking as rapporteur for Israel, recalled that followi a massacre in Hebron in 1994, the Committee had adopted a decision asking for further information, and had discussed the issue at length at its August 1994 session. A report had subsequently been received from the Israeli authoritie on their own investigations which the Committee had published as being pertinent to its work. At its forty-sixth session, the Committee had adopted a statement requesting the Israeli Government to expedite its seventh and eighth periodic reports and to include in them the information earlier requested. Although those reports had not yet been received, the Chairman ha received a letter from the Deputy Permanent Representative of Israel stating that his Government regretted the delay in the matter of the outstanding reports, which would be submitted as soon as possible.

2. In the light of such positive information he proposed that the Committe should recall the statement it adopted at its forty-sixth session, note the letter to the Chairman, reiterate its request that the reports be submitted a soon as possible prior to the Committee's next session and, while keeping ope its dialogue with Israel, remove Israel from the list of countries to be considered under early warning and urgent procedures.

3. Mr. GARVALOV expressed his full support for Mr. van Boven's proposal.

4. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to proceed as Mr. van Boven had proposed.

5. It was so decided.

Papua New Guinea

6. Mr. WOLFRUM, speaking as rapporteur for Papua New Guinea, said that he had received no further information in respect of the dispute concerning Bougainville and could only conclude that peace had returned. Negotiations were continuing and no violations had been reported. He therefore proposed that Papua New Guinea be removed from the list of countries considered under early warning and urgent procedures, on the understanding that consideration could be resumed in the event of any new developments.

7. It was so decided.

The Federal Republic of Yugoslavia (Serbia and Montenegro)

8. Mr. WOLFRUM, speaking as rapporteur for the Federal Republic, recalled that a small mediation mission consisting of himself, Mr. Ahmadu and Mr. Rechetov, had visited Kosovo in 1993 to try and find a way of improving

the human rights situation there within the scope of the Committee's mandate, without touching upon major political issues. The group had concentrated on the re-introduction of the Albanian language into schools in the Kosovo area, which had involved reopening some schools, reinstating teachers and having courses based on the 1990 curriculum. It had also concentrated on the reinstatement of Albanian doctors and nurses and on the use of the Albanian language in the media.

9. The mission had been successful and the group had reason to believe, from the positive signals given by all parties concerned, that further success was possible. In the meantime the States parties, following a decision by the United Nations General Assembly, had decided to suspend the membership of the Federal Republic which in turn, feeling that some of its rights were being denied, had decided to withdraw its official cooperation with the Committee. Despite that decision, it had produced a report (E/CN.4/Sub.2/1996/35) for the Sub-Commission on Prevention of Discrimination and Protection of Minorities which the Committee might wish to consider in view of the amount of relevant information it contained. The Sub-Commission also had before it a draft resolution on the situation of human rights in Kosovo (E/CN.4/Sub.2/1996/L.4) which was not consistent with the facts as presented in the report.

10. On the initiative of Mr. Rechetov, a meeting had taken place between himself and Mr. Rechetov and the Deputy Minister of Foreign Affairs of the Federal Republic, whose position had been the same as that taken earlier by the Permanent Representative, namely, that as long as the membership of the Federal Republic was suspended and its rights not fully recognized, it could not cooperate with the Committee. He and Mr. Rechetov had argued against that position as being politically unwise, and had been assured that their argument would be seriously considered. The Deputy Minister had promised that before the Committee's meeting in March 1997 he would inform the Chairman of any decision taken by the Government in the light of developments at the 1996 General Assembly. Any further action by the Committee at the present session would therefore be counter-productive.

11. He therefore proposed that the Committee should keep the issue on the agenda of its fiftieth session and mention in its report the informal discussion held at the present session.

12. Mr. SHERIFIS, commending the group on its high-level meeting, said that the Committee should take a flexible approach with Belgrade, keep the issue on its agenda and evaluate the situation at its next session in the light of developments in the General Assembly and any other developments in the area.

13. Mr. GARVALOV fully endorsed that recommendation. The Committee should bear in mind that the position of the Federal Republic was one which it had taken in respect of all human rights bodies. It should therefore keep the matter on its agenda and highlight the possibility of the mission resuming its mandate.

14. Mr. van BOVEN, endorsing the conclusions of the rapporteur, suggested that the Committee's brief discussion should be reflected in its report to the General Assembly under the chapter concerned with early warning and urgent procedures.

15. Mr. DIACONU said that the significant contribution which the mediation group had made to the Committee's work might well open new avenues to the Committee. There was no doubt that the acts of violence and abuses in Kosovo and the deep division within civil society came within the purview of its Convention. However, it could not take any decision which would affect the present impasse, and its contribution in future would be in helping to restor the fabric of society and helping the parties find solutions which would put an end to the suffering of their populations.

16. In addition to the reference in the report suggested by Mr. van Boven, mention should be made of the Committee's readiness to continue its mission o good offices.

17. Mr. de GOUTTES fully agreed with the conclusions of the rapporteur. Th matter should be kept on the Committee's agenda and the High Commissioner for Human Rights informed accordingly. The Committee should strongly emphasize its concerns about the situation in Kosovo, the need to rebuild the social fabric and its readiness to resume its mission.

18. Mr. FERRERO COSTA emphasized the need for the Committee to keep the matter on its agenda and to make known its view that the problem in Kosovo continued. The Committee should continue its informal dialogue with the authorities if formal contact was not possible, and indicate its intention to the authorities. It would be useful for the Committee to have a more detaile report on the situation in Kosovo at its next session, prepared either by Mr. Rechetov or Mr. Wolfrum or by the secretariat.

19. Mr. VALENCIA RODRIGUEZ expressed support for the conclusions of the rapporteur and the proposals by Mr. Sherifis. It was important that the Committee should maintain its dialogue with the authorities and establish cordial relations with Belgrade with a view to resuming its mission to the Federal Republic.

20. Mr. YUTZIS agreed that the Committee should leave all doors open so tha it could continue to exercise some degree of influence over a situation which called for the restoration of the civil and social fabric. Were it to continue its task of mediation, it should perhaps devise alternative investigative or follow-up methods so as to avoid any unnecessary repetition of activities that had not contributed substantially to evaluation or further action. It was also important to maintain unofficial channels of communication.

21. Mr. AHMADU, speaking as one of the three members of the good offices mission, agreed that the matter should remain on the Committee's agenda and that the possibility of carrying out a further mission to Kosovo and continuing the very fruitful dialogue with the authorities should be kept open. Meanwhile, in view of the disturbing developments on the ground, an updated report or review of the situation would be welcome.

22. Mr. SHAHI agreed the item should be kept on the agenda and deferred to the consensus view that the good offices mission should, if possible, continu its work, although he was sceptical about the outcome. The primary consideration to be borne in mind was the purpose of the mission as referred

to in the decision on the Federal Republic of Yugoslavia (Serbia and Montenegro) adopted by the Committee at its forty-eighth session, which was to help reopen a dialogue for a peaceful solution of issues concerning respect for human rights in Kosovo, with particular emphasis on the elimination of all forms of racial discrimination. He also drew attention to a strongly worded resolution (E/CN.4/Sub.2/1996/L.4) adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-eighth session, warning of the threat to peace in the region constituted by the situation in Kosovo, calling for a resumption of the internationally brokered dialogue between the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the representatives of the ethnic Albanians in Kosovo, demanding the revocation of all discriminatory legislation and stressing the importance of an international monitoring presence in Kosovo. The Committee should further bear in mind developments at the next United Nations General Assembly before proceeding with the good offices mission.

23. Mr. RECHETOV subscribed to the views expressed on the possibility of extending the mandate of the good offices mission. He agreed with Mr. Shahi's emphasis on promoting the elimination of all forms of racial discrimination as being the Committee's guiding principle, and with his assessment and that of the Sub-Commission on Prevention of Discrimination and Protection of Minorities that the situation in Kosovo was a threat to peace in the region; it was also a threat to peace worldwide. Since the Committee was agreed on the approach of the good offices mission and the purposes it should serve, and because of the explosive situation in Kosovo, it would be preferable not to wait until the Committee's next session before taking a decision on the continued work of the mission, but to leave it to the discretion of the Chairman to take the initiative should developments at the next General Assembly or changes in States' positions make it possible for the mission to resume its work earlier.

24. The CHAIRMAN suggested that, in the light of the information provided by Mr. Wolfrum on the situation in the Federal Republic of Yugoslavia and the proposals concerning the Committee's action in respect of the State party, it might be removed from the list of States parties that were subject to the overdue reports review procedure.

25. Mr. WOLFRUM observed that the document to which he had referred (E/CN.4/Sub.2/1996/35), addressed to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, could not be regarded as a report by the State party to the Committee. The procedure for overdue reporting should therefore be left unchanged.

26. Regarding the good offices mission, the Committee should confirm its agreement that no action was to be taken at the current session. Since, however, the mission to Kosovo had proved useful, if inevitably limited in scope, and was not viewed unfavourably by the authorities, the door should be left open for it to resume its work as soon as circumstances permitted. He supported Mr. Rechetov's suggestion about leaving that initiative with the Chairman. Mr. Rechetov had also rightly pointed to the instability of the

situation in Kosovo. It was important to defuse what was reported to be mounting tension there as soon as possible. Should there be no developments permitting a resumption of the mission, the Committee should review the situation at its spring session.

27. The CHAIRMAN said that he took it that the Committee wished to proceed proposed by Mr. Wolfrum.

28. It was so agreed.

Draft decision on Bosnia and Herzegovina (CERD/C/49/Misc.11/Rev.2)

29. Mr. van BOVEN said that the revised text before the Committee, now formally a draft decision, incorporated proposals by various members and, in paragraph 2, reflected aspects of the Committee's discussion with the representative of the State party. The third paragraph, while emphasizing t importance of free, fair and democratic elections, drew attention to concern expressed during the Committee's discussions about holding elections under t present circumstances. The other paragraph that had been amended, paragraph 4, incorporated a proposal by Mr. Rechetov. He was also prepared principle to incorporate an amendment by Mr. Shahi, subject to a formal proposal for its wording, reflecting his concerns about the possible adverse consequences of the scheduled withdrawal of the implementation force (IFOR) the end of the year.

30. Mr. WOLFRUM fully subscribed to the well-balanced, neutrally worded dra decision, drawing attention in particular to paragraph 3, which made it quit clear that the subject of the paragraph fell squarely within the Committee's mandate, and paragraph 4, which took Mr. Rechetov's proposal into account. He, too, sympathized with Mr. Shahi's concerns, but would prefer to see the proposed wording in writing.

31. Mr. de GOUTTES fully supported the draft decision for the same reasons Mr. Wolfrum. It was the logical follow-up to the Committee's declaration at its March session. He favoured its adoption as it stood, subject to Mr. Shahi's proposal, which might perhaps be accommodated in paragraph 2.

32. Mr. GARVALOV expressed his approval of the wording of the draft decisio which updated the Committee's views on an important issue. Paragraph 2 rightly incorporated suggestions made by the representative of Bosnia and Herzegovina, and he welcomed the reference in paragraph 3 to free, fair and democratic elections, which was in line with a concern he had previously expressed, namely that if the next elections were not free, fair and democratic, they might divide the country along ethnic lines, thus impairing the integrity of the State party. He was pleased to see that Mr. Rechetov's suggestion had been incorporated. He would support the inclusion of wording expressing the Committee's concern about the possible repercussions of a withdrawal of IFOR.

33. Mr. CHIGOVERA asked for clarification about the thrust of the second pa of paragraph 3. Was the Committee suggesting that it was inopportune for elections to be held at the present stage?

34. Mr. FERRERO COSTA said that he, too, had some doubts about the interpretation of the third paragraph. The Committee should not give the impression that it was suggesting a postponement of the elections. The emphasis should be on appropriate measures to ensure that the elections did not lead to ethnic segregation and division.

35. Mr. SHAHI proposed the addition of the following new paragraph at the end of the text: "Apprehensive that the separation of the warring parties and the peaceful conditions brought about by the Implementation Force (IFOR) may not continue to obtain after the envisaged withdrawal of this force by the end of 1996, [the Committee] invites the attention of the Security Council, through the Secretary-General, for dealing with any such emergency that may arise, by the establishment of a successor force to the Implementation Force".

36. Mr. van BOVEN said he could accept Mr. Shahi's proposal, although an alternative to the word "separation" might be found.

37. He felt that the text of paragraph 3 accurately reflected the views expressed by members - some had been in favour of the elections going ahead and some had not - but suggested that the paragraph should be amended to read: "... the holding of elections, important as they are, may under the present circumstances reinforce ...".

38. Mr. SHERIFIS said that the Committee must not give the impression that it opposed the holding of elections. He suggested that paragraph 3 should be expressed in a more positive manner: instead of "preoccupations" or "fear", the Committee should express its "earnest hope" that the elections would not entrench or encourage patterns of ethnic segregation and ethnic division.

39. Mr. AHMADU said that paragraph 3 merely stated the facts. There were risks involved both in holding elections and in not holding them: all the parties concerned were now committed to the elections, and the Committee could only point out the possible dangers.

40. He supported Mr. Shahi's amendment, which went beyond the elections to consider developments in the long term.

41. Mr. RECHETOV agreed with Mr. Sherifis that the present paragraph 3 was too negative. He proposed the following wording: "The Committee is fully conscious of the fact that only the holding of free, fair and democratic elections is likely to contribute to laying the foundations ...", continuing with the existing text.

42. He supported Mr. Shahi's amendment, which rightly placed the responsibility for action on the Security Council and the Secretary-General.

43. Mr. LECHUGA HEVIA expressed concern that Mr. Shahi's amendment assumed that the elections would serve no useful purpose. If the Committee

recommended the establishment of a successor force to IFOR even before the elections had taken place, it was in effect saying that the elections could not improve the situation.

44. Mr. YUTZIS said that paragraph 3 accurately described the existing situation. If the wording was ambiguous, it was because the situation was ambiguous, and changing the text would not be any solution. He accordingly supported the original text.

45. Mr. FERRERO COSTA said that the original text was the best that the Committee was likely to achieve. The more positive formulation suggested by Mr. Sherifis carried a number of risks; he accordingly supported the original version, with the amendment proposed by Mr. van Boven, and hoped that the text would be adopted by consensus.

46. Mr. WOLFRUM said that the original text reflected the real situation. He could accept Mr. van Boven's proposed amendment, although it merely repeated the substance of the first two lines of the paragraph, but he could not accept Mr. Sherifis' proposal.

47. Mr. VALENCIA RODRIGUEZ said that while he supported Mr. Rechetov's proposal, he also understood Mr. Sherifis' concern that the Committee should not give the impression that it opposed the elections. He proposed the following wording: "... the Committee expresses the earnest hope that, in view of the actual deficiencies in the process of ... the holding of elections may not reinforce patterns of ethnic segregation ...". He was happy to accept Mr. Shahi's proposal.

48. Mr. de GOUTTES said that the text should clearly express the Committee's view that the elections should go ahead in the best possible conditions and its fears concerning the possible consequences of the withdrawal of IFOR. The amendment proposed by Mr. van Boven, or some formulation such as: "The Committee, while approving the principle of elections, expresses its serious preoccupations ..." should meet the first concern adequately. If the Committee preferred Mr. Sherifis' more positive formulation, it could adopt something along the lines of: "the Committee hopes that the elections will not create the risk of ethnic segregation in view of the alarming reports of deficiencies in the process of voter registration ...".

49. Mr. SHAHI said that the original version of paragraph 3 accurately described the existing situation as reported by international observers. Perhaps some formulation such as "The Committee, while fully supporting the holding of elections ..." could be used.

50. In reply to Mr. Lechuga Hevia, he said that his suggestion that a successor force to IFOR should be established was not linked in any way with the elections. Even if the elections went well, the situation might still deteriorate rapidly. He did not, therefore, feel that his proposed new paragraph prejudged the results of the elections.

51. Mr. CHIGOVERA asked whether the Committee was trying to say that it would be unwise to hold the elections at all. If it was, then Mr. van Boven's amendment changed nothing. If it was not, then it should adopt Mr. Sherifis' proposal.

52. Mr. YUTZIS said that the original text was balanced. It did not question the usefulness of the elections, but merely stressed the dangers of the existing situation, which had been widely recognized by international public opinion. He felt that the original text, with the revision suggested by Mr. van Boven, was the best option.

53. Mr. GARVALOV said the text of paragraph 3 should remain as it stood, with the amendment proposed by Mr. van Boven.

54. In the same way as the continued presence of international forces had been necessary in Mostar following elections, a successor force should remain in Bosnia and Herzegovina after the elections there to prevent a renewed outbreak of hostilities. The Committee should, however, consider deleting "the separation of the warring parties" from the proposed new paragraph 9.

55. Mr. van BOVEN (Country Rapporteur) said that, when drafting the decision, he had tried to take full account of the views of members of the Committee. The text of paragraph 3, with the amendment he had already suggested, should stay as it was. The first part of the paragraph had been based on the Dayton Peace Accords and, as such, should not be changed.

56. The amendment proposed by Mr. Garvalov to the new paragraph 9, was acceptable, with the corresponding drafting changes, and possibly the insertion of "eventual" before "establishment".

57. Mr. SHERIFIS said that he could not associate himself with any text that implied that the Committee had taken a position that could be interpreted as hostile to elections.

58. Mr. RECHETOV associated himself with the comments made by Mr. Sherifis. He had some difficulty with the apparent link made between democratic elections and the development of democracy in Bosnia and Herzegovina and wondered whether, given the situation in Bosnia and Herzegovina, the holding of completely democratic elections in an ethnically pure region might not increase segregation and possibly lead to the emergence of communities with secessionist aspirations.

59. Mr. WOLFRUM said that he could not accept the changes proposed by Mr. Sherifis and, if necessary, he would ask for them to be put to a vote.

60. The CHAIRMAN suggested that the Committee might wish to resume consideration of the draft decision on Bosnia and Herzegovina later, to give members a chance to discuss the text informally.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the eighth to twelfth periodic reports of Mauritius (CERD/C/49/Misc.19/4)

Paragraph 11

61. In response to concerns raised by Mr. CHIGOVERA, the CHAIRMAN suggested that paragraph 11 should be deleted.

Paragraph 24

62. Mr. SHERIFIS proposed that "at its earliest convenience" should be inserted.

63. The draft concluding observations concerning the eighth to twelfth periodic reports of Mauritius were adopted with the proposed amendments and subject to possible minor drafting changes.

Draft concluding observations concerning the fourth to the seventh periodic reports of Namibia (CERD/C/49/Misc.20)

Paragraph 16

64. Mr. CHIGOVERA (Country Rapporteur), responding to comments made by Mr. FERRERO COSTA, said that the reference to "apparent delays" was necessary since Namibia was a young country and was trying its best to overcome the problems it had inherited.

Paragraph 17

65. Mr. FERRERO COSTA proposed that "any" should be deleted.

Paragraph 19

66. Mr. WOLFRUM proposed that "in particular vulnerable groups among them" should be inserted after "black people".

67. Mr. CHIGOVERA, in response to a point raised by the CHAIRMAN, said that "resources" should replace "income".

68. Mr. SHERIFIS said that reference should be made somewhere in the text to the recommendation that States parties should consider ratifying the amendments concerning the financing of the Committee.

69. The draft concluding observations concerning the fourth to seventh periodic reports of Namibia were adopted with the proposed amendments and subject to possible minor drafting changes.

The meeting rose at 1.00 p.m.